

cc:SPK/KSC  
**ORIGINAL**

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Attorneys for Plaintiff  
ANDREA LABARGE

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DEC 23 2005

at 9 o'clock and 25 min. A.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ANDREA LABARGE,	)	CIVIL NO. 04-00477 SPK KSC
	)	
Plaintiff,	)	PLAINTIFF'S FINAL PRETRIAL
	)	STATEMENT; CERTIFICATE OF
v.	)	SERVICE
	)	
UNIVERSITY OF HAWAII,	)	
	)	
Defendant.	)	
	)	
	)	
	)	TRIAL DATE: February 14, 2006

4976

**PLAINTIFF'S FINAL PRETRIAL STATEMENT**

Plaintiff, Andrea LaBarge, by and through her counsel,  
hereby submits her Final Pretrial Statement, pursuant to Local  
Rule 16.6. Plaintiff reserves the right to supplement her Final  
Pretrial Statement.

**A. Party**

Plaintiff, Andrea LaBarge, Ph.D. ("Plaintiff") is a female and was a resident of the State of Hawaii during the relevant time period. Also, during the relevant time period, Plaintiff was employed as an Instructor in the Department of Management and Industrial Relations, College of Business Administration, University of Hawaii ("U.H.").

**B. Jurisdiction and Venue**

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1361 and 42 U.S.C. § 2000e-16(c).

Venue is proper in this Court pursuant to 28 U.S.C. § 1606(e) and 42 U.S.C. § 2000e-5(f)(3) in that the actions complained of herein took place in the State of Hawaii.

**C. Substance of Action**

Plaintiff contends that the U.H.'s refusal to restore her to academic time and salary equal to the 100% level like Plaintiff's male counterparts violated the Equal Pay Act of 1963, 29 U.S.C. § 206(d)(1).

In addition, Plaintiff contends that the elimination of her Instructor's position by her male counterparts violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., in that it was motivated by her female gender.

**D. Undisputed Facts**

Plaintiff believes the fact of her female gender, and that she was employed by the U.H. as an Instructor during the relevant time period are not in dispute.

**E. Disputed Factual Issues**

Plaintiff believes that all other factual allegations in the pleadings are in dispute.

**F. Relief Prayed**

As reflected in the Complaint, Plaintiff seeks the following relief:

1. Declare and adjudge that the refusal of the School of Business Administration, University of Hawaii, to restore her academic time and salary to her previous 100% level violated the Equal Pay Act of 1963.

2. Declare and adjudge that the elimination of the Plaintiff's instructor's position in the Department of Management and Industrial Relations, School of Business Administration, University of Hawaii in February 2003 and approved by the Dean of the School of Business Administration on June 27, 2003 violated Title VII of the Civil Rights Act of 1964, as amended.

3. Issue an order restoring the Plaintiff's instructor's position in the Department of Management and Industrial Relations, School of Business Administration.

4. Award the Plaintiff back pay and other employment benefits resulting from the Defendant's violation of the Back Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, as amended.

5. Award the Plaintiff compensatory damages in an amount of not less than \$300,000.00.

6. Grant the Plaintiff an award of attorney's fees and litigation costs as incurred in this action.

7. Grant the Plaintiff such other relief as this Court deems proper and appropriate.

**G. Points of Law**

As noted above, Plaintiff contends that the U.H.'s refusal to restore Plaintiff's academic time and salary to her previous 100% level, violated the Equal Pay Act of 1963, 29 U.S.C. § 206 (d) (1).

In addition, Plaintiff contends that the U.H. eliminated her Instructor's position in February 2003 in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

**H. Previous Motions**

On March 9, 2005, Plaintiff filed her Motion to Compel Discovery. Defendant filed her opposition memorandum on March 21, 2005. The Court held its hearing on April 8, 2005 where it granted in part and denied in part Plaintiff's Motion.

On September 14, 2005, Defendant filed its Motion for Summary Judgment ("MSJ"). Plaintiff filed her opposition memorandum to Defendant's MSJ on November 10, 2005. The Court held its hearing on Defendant's MSJ on November 30, 2005. To date, the parties are awaiting the Court's decision.

**I. Witnesses to be Called**

**Nonexpert Witnesses**

1. Andrea LaBarge, Ph.D., c/o The Law Office of Clayton C. Ikei, 1440 Kapiolani Boulevard, Suite 1203, Honolulu, Hawaii 96814. Dr. LaBarge is the Plaintiff in this action and is expected to testify as to the factual allegations in the pleadings and damages she incurred.

2. Associate Professor Elaine K. Bailey, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Assoc. Prof. Bailey is expected to testify as to the factual allegations in the pleadings.

3. Kaaren Nissem, 3655 E. Sahara Avenue, #2003, Las Vegas, Nevada 89104. Ms. Nissem is the former Secretary of the Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, and is expected to testify as to the factual allegations in the pleadings.

4. Karen Lee, Executive Assistant, Office of the President, University of Hawaii, 2444 Dole Street, Bachman 204, Honolulu, Hawaii 96822. Ms. Lee was employed with the College of Business Administration, University of Hawaii during the relevant time period and is expected to testify as to the factual allegations in the pleadings.

5. Marsha Anderson, Assistant Dean, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Asst. Dean Anderson is expected to testify as to the factual allegations in the pleadings.

6. Dean Cost, Instructor, Financial Economics & Institutions, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Mr. Cost is expected to testify as to the factual allegations in the pleadings.

7. David McClain, Interim President, University of Hawaii, 2444 Dole Street, Bachman 202, Honolulu, Hawaii 96822. Pres. McClain was the Dean of the College of Business Administration during the relevant time period and is expected to testify as to the factual allegations of the pleadings.

8. Professor Robert Doktor, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Prof. Doktor is expected to testify as to the factual allegations in the pleadings.

9. Professor Dharm Bhawuk, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Prof. Bhawuk is expected to testify as to the factual allegations in the pleadings.

10. Professor Richard Brislin, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Prof. Brislin is expected to testify as to the factual allegations in the pleadings.

11. Professor David Bess, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Prof. Bess is expected to testify as to the factual allegations in the pleadings.

12. Associate Professor David Bangert, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Assoc. Prof. Bangert is expected to testify as to the factual allegations in the pleadings.

13. Professor Kiyohiko Ito, Department of Management and Industrial Relations, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Prof. Ito is expected to testify as to the factual allegations in the pleadings.

14. William Chismar, Associate Dean for Academic Affairs, Office of the Dean, College of Business Administration, University of Hawaii, 2404 Maile Way, Honolulu, Hawaii 96822. Assoc. Dean Chismar is expected to testify as to the factual allegations in the pleadings.

**Expert Witnesses**

1. Donna Wueste, LCSW, 1441 Kapiolani Boulevard, Suite 1600, Honolulu, Hawaii 96814. Ms. Wueste was Plaintiff's treating therapist and is expected to testify as to Plaintiff's emotional condition and the treatment provided.

2. Darweshi Hollins, LCSW, QCSW, 1441 Kapiolani Boulevard, Suite 1600, Honolulu, Hawaii 96814. Mr. Hollins was Plaintiff's treating therapist and is expected to testify as to Plaintiff's emotional condition and the treatment provided.



**J. Exhibits, Schedules & Summaries**

Plaintiff intends to submit documents related to her employment at the U.H., as well as her damages. Plaintiff will be forwarding her exhibit list per the Scheduling Order.

**K. FURTHER DISCOVERY OR MOTIONS**

Discovery cutoff was December 16, 2005.

Plaintiff noticed the taking of the oral deposition of Dean Cost for December 8, 2005. As Mr. Cost was not available on that date, Defendant agreed to have Mr. Cost be deposed on December 21, 2005.

Additionally, because Plaintiff now resides in Maryland, the parties agreed that Defendant may take Plaintiff's oral deposition while she is in Hawaii to attend the jury trial.

**L. STIPULATIONS**

Plaintiff does not have any stipulations to request or propose for pretrial or trial purposes at this time.

**M. AMENDMENTS OR DISMISSAL**

Plaintiff does not have any request or proposal for amendments to pleadings or dismissal or parties, claims or defenses at this time.

**N. SETTLEMENT DISCUSSIONS**

On October 12, 2005, Plaintiff sent to Defendant her terms for settlement to which Defendant did not respond. The settlement conference has been scheduled for January 11, 2006.

**O. AGREED STATEMENTS**

Presentation of the action in whole or in part, upon an agreed statement of facts, is not feasible and agreeable.

**P. BIFURCATION, SEPARATE TRIAL ISSUES**

Bifurcation or a separate trial of specific issues is not feasible and desired.

**Q. REFERENCE TO MASTER OR MAGISTRATE JUDGE**

Not applicable.

**R. APPOINTMENT AND LIMITATION OF EXPERTS**

Appointment by the Court of an impartial expert witness and whether limitation of the number of expert witnesses, is not feasible and desired.

**S. TRIAL**

Trial is currently scheduled for February 14, 2006. Plaintiff made a timely demand for a jury trial which is on file.

**T. ESTIMATED TRIAL TIME**

Plaintiff estimates that she will need four (4) trial days to present her case.

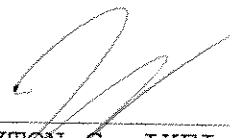
**U. CLAIMS OF PRIVILEGE OR WORK PRODUCT**

There are no matters otherwise required to be stated by this rule that is claimed to be covered by the work product or other privilege.

**V. MISCELLANEOUS**

None.

DATED: Honolulu, Hawaii, December 23, 2005.



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Attorneys for Plaintiff  
ANDREA LABARGE

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FOR THE DISTRICT OF HAWAII

ANDREA LABARGE,	)	CIVIL NO. 04-00477 SPK-KSC
	)	
Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
v.	)	
	)	
UNIVERSITY OF HAWAII,	)	
	)	
Defendant.	)	

CERTIFICATE OF SERVICE

I hereby certify that one true and correct copy of the foregoing document was duly served upon the following individuals, at their last known address, by depositing it in the U.S. mail, postage prepaid, on December 23, 2005:

TO: WALTER S. KIRIMITSU, ESQ.  
RUTH I. TSUJIMURA, ESQ.  
RYAN M. AKAMINE, ESQ.  
CHRISTINE TAMASHIRO, ESQ.  
University of Hawaii  
Office of General Counsel  
2444 Dole Street, Bachman 110  
Honolulu, Hawaii 96822

Attorneys for Defendant  
UNIVERSITY OF HAWAII

DATED: Honolulu, Hawaii, December 23, 2005.

  
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CLAYTON C. IKEI  
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Attorneys for Plaintiff  
ANDREA LABARGE